

City of Detroit

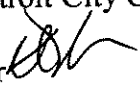
CITY COUNCIL

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TO: The Honorable Detroit City Council

FROM: David D. Whitaker 
City Council Research and Analysis Division Staff

DATE: May 15, 2007

RE: **PROPOSED TRANSACTION REGARDING THE DETROIT WINDSOR
TUNNEL BETWEEN THE CITIES OF DETROIT AND WINDSOR,
MDOT, AND A TRANSPORTATION AUTHORITY TO BE CREATED**

The City Council Research and Analysis Division provides this preliminary analysis of the Letter from City of Detroit Mayor Kwame Kilpatrick dated March 7, 2007, to City of Windsor Mayor Eddie Francis with regard to the above-captioned transaction. RAD also will summarize its notes from a meeting on April 20, 2007, regarding the proposed transaction.

1. **Overriding Policy Considerations**

RAD suggests that the following overriding policy issues merit attention prior to this Honorable Body making its decision whether to approve this transaction as a budget item:

a. Who will be the Operator of the tunnel under the Definitive Operating Agreement? What rights do the City representatives on the DTA have to name or remove the Operator?

b. Documents submitted to this Honorable Body thus far state that the City will transfer title in fee simple to the Authority. This language means the City transfers its ownership rights in the tunnel *forever*. Has there been any discussion of reversion rights after the 75-year Definitive Operating Agreement expires? Has there been any discussion of a long term lease of the tunnel, similar to the Illinois Skyway and Indiana Toll Road deals?

c. How was the \$75 million purchase price ascertained? Assuming the amount was derived, at least in part, from an analysis of the profits/losses/capital expenditures associated

with operation of the tunnel, it would seem prudent to request an audit of the books of the Detroit Windsor Tunnel Corporation to objectively verify information made a part of the analysis.

2. Structure of Transaction

Pursuant to the March 7, 2007, letter the following sequence of events will occur:

- 1.) City and MDOT enter into Agreement under the Urban Cooperation Act, Act 7 of 1967, MCL 124.501 et seq., and create the Michigan Transportation Agency
- 2.) The Michigan Transportation Agency will create the Detroit Tunnel Authority pursuant to Public Transportation Authority Act, Act 196 of 1986, MCL 124.451 et sq.
- 3.) Detroit conveys *fee simple title* to the U.S. side of the tunnel, including, tube, plaza, all leases and off site facilities to the DTA, for which Detroit receives \$75 million (after expenses, a net of \$58 million), with no indication of future income after title is transferred. Other documentation provided to this Honorable Body states that after 75 years, the Detroit Transportation Authority will continue to own the US tunnel.
- 4.) Detroit and DTA enter into a Definitive Operating Agreement (DOA) with Windsor and Operator having a term of 75 years. It appears that Detroit would be a party to the DOA only for the time period for lease to expire on 2020. After title is conveyed to DTA, it appears Detroit technically would not be a party to the 75-year agreement.

The Operating Agreement would also include the appointment of an Operator as Detroit's agent for the period from closing until 2020 to administer Detroit's lease of the US Tunnel to DCTC. The Operator receives all revenues. It appears this portion of the deal is a set off from the \$75 million purchase price. In other words, if Detroit is giving up revenues of \$600,000 per year it would have received under the lease in exchange for \$75 million, then \$7.8 million (13 years x \$600K) would be taken off the top of the purchase price.

The Operator is also given exclusive right to operate the US Tunnel for 75 years after 2020, in consideration of receiving all revenues. Further, the Operating Agreement will provide for joint operation of the tunnel by its owners as one unit. The owners of the tunnel would be the City of Windsor and the DTA.

- 5.) Upon closing of the Definitive Operating Agreement, the Operator pays DTA a fee in the amount of \$75 million. DTA then uses those funds to pay Detroit the purchase price. The sequence of events in the March 7 letter raises a question as to how Detroit can receive funds from the DTA *prior* to the DTA receiving funds from the Operator under the DOA. (See Step 3 above.)

3. Potential Conflict of Interest

Macquarie Global Infrastructure Fund invests in the Detroit /Windsor tunnel (per the company's literature) and Macquarie filed a document stating it gained control over Detroit Windsor Tunnel

LLC, Detroit and Windsor Subway Company and DWT, Inc. on May 12, 2006. (See attached Exhibit 1, page 3) The Macquarie website states they are acting as an *advisor* over the acquisition and financing of the Detroit Windsor Tunnel deal. (See attached Exhibit 2)

Thus, if the above information is correct, this Honorable Body may wish to inquire as to whom Macquarie is advising, whether they are the intended Operator of the Definitive Operating Agreement, or if it has some other role in this proposed transaction. This may pose a potential conflict of interest; however, more information is needed to make this determination. Interestingly, Macquarie is the company that owns lease rights to the Indiana Toll Road and the Dulles Greenway Toll Road linking northern Virginia to Dulles Airport in Washington.

4. "Legally Binding" provisions of the March 7, 2007 Letter.

The letter states that Paragraphs 7 – 12 are legally binding and an enforceable agreement. Paragraph 8 states the parties cannot make public comments or statements about the *existence of discussions* regarding the possible transaction *or the terms and conditions of the transaction proposed in the letter*. This Honorable Body must publicly deliberate the proposed contracts, and Council's public deliberations would technically be a violation of this letter/agreement. There may also be public disclosures required by law.

5. Summary of April 20, 2007 Meeting

A meeting was held on April 20, 2007, to discuss this proposed transaction. The Mayor's administration; members of City Council division staff, including the Fiscal Analysis and Research and Analysis Divisions; and legal and financial advisors secured by the Mayor's Administration were in attendance.

The following items (some of which are open inquiries) were distilled from this meeting, which might assist this Honorable Body in its efforts to gain a greater understanding of this proposed deal:

1. It was characterized as an "Operation Maintenance and Use Agreement," not a lease. It was explained that the parties do not want to legally structure it in the form of a lease or franchises because the Michigan Constitution, Article VII, *Local Government*, Section 30, *Franchises and licenses duration*, prohibits the city from granting a franchise or license "for a period longer than 30 years."¹

2. The agreement is for 75 years in exchange for \$75 million from the City of Windsor. The March 7th letter states the \$75 million is from the Detroit Transportation

¹ In 1990 ownership of the Canadian half of the Detroit-Windsor Tunnel reverted to the city of Windsor, ending a 60-year franchise agreement with the Detroit & Canada Tunnel Corp. In 1978 the city of Detroit granted the company a 30-year lease extension to smooth the way for construction of the Renaissance Center. The tunnel company gave up rights-of-way ownership to streets where the Ren Cen now stands in exchange for a tax break and construction of a new Detroit tunnel plaza. (See 1977 resolution, Exhibit 3)

Authority, who is receiving the funds from the Operator. Thus, the question of some import is, "Who is the actual funding source for the \$75 million?"²

3. The current contract with the Detroit Tunnel Company will continue until it expires in 2020. Windsor "steps in the shoes" of the City; however, Windsor will not take an active role in the operation of the City's side of the tunnel until 2020. (The March 7th letter states the Operator steps into the shoes of the City.)

4. It was clarified that the tunnel property would be transferred to the Authority; and it would *not* automatically revert back to the City after 75 years. The new Authority would consist of eight members. Four would be appointed by the City (Mayor) and four by Windsor. When asked what would happen in the event of a tie, the Administration indicated that they were still negotiating who would get super majority on various issues.

5. If Windsor breaches the contract, or after the 75 years, the Authority membership would consist of seven members, four from the City and three from the State of Michigan.

6. Liability issues; insurance coverage; and events resulting in breach, non-performance, or inability to use the tunnel for reasons within or outside of the party's control are still being negotiated. Also, there was discussion about possible circumstances where the City might have to refund a portion of the \$75 million. This was also to be a topic for negotiation.

7. There may be some continuing homeland security issues that may implicate our local law enforcement services. The extent of services and cost to the City are to be negotiated.

8. The Federal and Canadian governments do not object to this agreement, per the Administration. This Honorable Body should request a copy of any letters the Administration received to this effect.

5. Conclusion

RAD's review is preliminary, and we are waiting for the actual proposed Agreements for a more thorough review of both the transaction itself and all applicable laws.

We hope this memorandum has been informative.

² Macquarie Infrastructure Group has engaged in similar acquisitions in the past and its literature purports to have the controlling interest in the operation of the Detroit Windsor Tunnel; thus, they may be involved as the source of the funds directly or through another entity.

**APPENDIX 4D
HALF YEAR REPORT**

MACQUARIE BANK LIMITED
ABN 46 008 583 542

HALF YEAR ENDED 30 SEPTEMBER 2006

1 Details of the reporting period and the previous corresponding period

Current period:	1 April 2006 to 30 September 2006
Prior corresponding period:	1 April 2005 to 30 September 2005

2 Results for announcement to the market

Key information	Half year ended 30 September 2006 \$M	Half year ended 30 September 2005 \$M	% Change
2.1 Income from ordinary activities	3,156	2,160	46%
2.2 Profit attributable to equity holders of Macquarie Bank Limited	745	497	50%
2.3 Profit attributable to ordinary equity holders of Macquarie Bank Limited	730	482	51%

2.4 Dividends	Amount per security	Franked amount per security
Ordinary Shares		
Interim dividend (declared, not yet provided at 30 September 2006)	125 cents per ordinary share	100%
Final dividend	n/a	n/a
2.5 Record date for determining entitlements to the dividends		
Record date for the interim dividend is 24 November 2006.		

2.6	<p>Commentary</p> <p>AIFRS: The financial report for the half year ended 30 September 2006, and the results reported herein, are prepared in accordance with Australian Equivalents to International Financial Reporting Standards ('AIFRS').</p> <p>Consolidated Result:</p> <p>The Bank's consolidated net profit after income tax attributable to its ordinary equity holders for the half year ended 30 September 2006 was \$730 million, an increase of 51% on the prior corresponding period. Basic earnings per share is up 41% to 300.9 cents.</p> <p>The Bank benefited from a number of significant transactions during the period, including the initial public offering of Dyno Nobel, the realisation of a large US oil and gas asset and the disposal of the Bank's investment in Macquarie Goodman Group (MGQ).</p> <p>To support this strong growth and to fund international expansion opportunities, the Bank raised in excess of \$700 million of ordinary equity earlier this year through a private institutional share placement and a share purchase plan for retail investors.</p> <p>Total operating income for the half year to 30 September 2006 increased 46% over the prior corresponding period to \$3,156 million, driven by profits from the disposal of equity investments and market conditions that have been favourable for investment banking activities.</p> <p>The Bank's global expansion continues to see international income grow, up considerably to \$1,321 million, representing an increase of 38% on the prior corresponding period. International income amounted to 44% of the Bank's total operating income (excluding earnings on capital) for the half year to 30 September 2006, which is down slightly from 46% in the prior corresponding period largely due to the disposal of MGQ. Excluding the income from this transaction, international income for the half would have represented approximately 49% of total operating income (excluding earnings on capital).</p> <p>Operating expenses are up 50% on the prior corresponding period to \$2,213 million. Employment costs, the largest component of operating expenses, are up 54% on the prior corresponding period to \$1,807 million. The increase has been driven by headcount growth combined with growth of staff profit share expense through an increase in net profit and an improved return on equity. Headcount is up 26% on the prior corresponding period to 8,986 staff with international headcount increasing by 48% to 3,006 staff.</p> <p>Refer to the September 2006 Interim Result Announcement for more details.</p>
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3 Net tangible asset per security

	30 September 2006	30 September 2005
	\$	\$
Ordinary shares	13.89	12.67
Including the intangibles (net of associated deferred tax liabilities) within the Bank's businesses held for resale, the NTA per ordinary share would have been \$20.10 at 30 September 2006 (30 September 2005: \$14.85)		

4 Control gained or lost over entities in the half year, and those having material effect

Name of entities where control was gained in the half year	Date control gained
Detroit Windsor Tunnel LLC	12-May-06
Detroit and Windsor Subway Company	12-May-06
DWT Inc	12-May-06
Alabama Black Warrior Parkway, LLC	12-May-06
Alabama Emerald Mountain Expressway Bridge, LLC	12-May-06
Alabama Toll Operations, LLC	12-May-06
Central Alabama River Parkway, LLC	12-May-06
Cervus Financial Corp	06-Jul-06
Corona Energy Holdings Limited	31-Jul-06
East London Bus & Coach Company Limited	30-Aug-06
South East London & Kent Bus Company Limited	30-Aug-06

The above entities did not contribute materially to the reporting entity's profit from ordinary activities.

Name of entities where control was lost in the half year	Date control lost
Nil	

5 Dividend details

	Half year ended 30 September 2006 \$M	Half year ended 30 September 2005 \$M
Ordinary share capital Interim dividend provided: Nil (2005: Nil) cents per share Interim dividend paid: 90 (2005: 61) cents per share Final dividend paid: 125 (2005: 100) cents per share Special dividend paid: Nil (2005: 40) cents per share	 290 -	 224 89
<p>There is no provision for interim dividend in respect of the half year ended 30 September 2006 as a result of AASB 137: <i>Provisions, Contingent Liabilities and Contingent Assets</i>. A provision for dividend is recognised at the time the dividends are declared, determined or publicly recommended.</p> <p>The final dividend paid during the half year ended 30 September 2006 was 100% franked at 30% (2005: 90% franked at 30%).</p> <p>Since half year end, the Directors have declared the payment of an interim dividend for the half year ending 30 September 2006 of 125 cents per fully paid ordinary shares, 100% franked at 30%. The aggregate amount of the interim dividend to be paid on 15 December 2006 out of retained profits at 30 September 2006, but not recognised as a liability at half year end, is \$312 million. This amount has been estimated based on the number of shares eligible to participate as at 30 September 2006.</p>		
Macquarie Income Securities Distributions paid during the half year ended 30 September 2006 (net of distributions previously provided) were \$9 million (2005: \$9 million). Distributions provided at 30 September 2006 are \$6 million (2005: \$6 million). The distributions in respect of Macquarie Income Securities are classified as distributions on an equity instrument in accordance with AASB 132 <i>Financial Instruments: Disclosure and Presentation</i> .		
Macquarie Income Preferred Securities Distributions provided at 30 September 2006 are \$25 million (2005: \$23 million). The Macquarie Income Preferred Securities represent a minority interest of the economic entity. Accordingly, the distributions paid/payable in respect of these are recorded as a movement in minority interest.		

6 Dividend or distribution reinvestment plan details

<p>The Dividend Reinvestment Plan ("DRP") was approved by ordinary shareholders at the 2001 Annual General Meeting. The DRP is optional and offers ordinary shareholders in Australia and New Zealand the opportunity to acquire fully paid ordinary shares, without transaction costs, at the prevailing market value less 2.5%. A shareholder can elect to participate in or terminate their involvement in the DRP at any time.</p> <p>Election notices for participation in the DRP in relation to the interim dividend to be paid on 15 December 2006 must be received by the registry by 5.00pm on 24 November 2006 to be effective for that dividend.</p>
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7 Investment associates and joint ventures

Name	Participating interest (%)
Material interests in associates and joint ventures are as follows:	
Diversified CMBS Investments Inc.	57%
Dynasty Property Investment Limited	24%
European Directories SA	13%
Macquarie Airports	15%
Macquarie Capital Alliance Group	11%
Macquarie Communications Infrastructure Group	12%
Macquarie Countrywide Trust	9%
Macquarie Diversified (AA) Trust	29%
Macquarie European Infrastructure Fund LP	5%
Macquarie Infrastructure Company Trust	7%
Macquarie Infrastructure Group	2%
Macquarie International Infrastructure Fund Limited	8%
Macquarie MEAG Prime REIT	20%
Macquarie Media Group	21%
Macquarie Office Trust	6%
Macquarie Shinhan Infrastructure Asset Management Co Limited	50%
Medallist Developments Inc.	80%
Medallist Developments Trust	70%
Moto International Holdings Limited	29%
Resources Services Holdings USA	17%
Material interests in held for sale associates are as follows:	
AM Office Unit Trust	85%
Creative Broadcast Services International Limited (previously Creative Broadcast Services Limited)	28%
Macquarie New York Parking 2 LLC (previously TMO Parent LLC trading as Icon Parking)	53%
Retirement Villages Group (previously Global Retirement Trust)	48%
Taiwan Cable TV Investment Sarl	40%

The above entities did not contribute materially to the reporting entity's profit from ordinary activities.

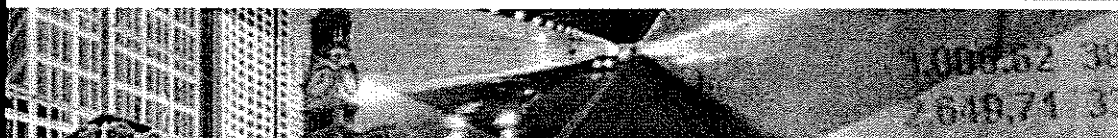
8 Foreign entities, applicable accounting standards used

Not applicable	
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9 Statement if financial report is subject to review dispute or qualification

The financial report has been subject to review, and is not subject to disputes or qualifications.	
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Exhibit 2


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Mergers and acquisitions track record

Recent transactions

Project	Client	Value	Our role
Southcorp/Rosemount	Southcorp Limited	\$A1.5bn	Adviser on the acquisition of Rosemount Estate.
Baycorp/Data Advantage	Baycorp Holdings Ltd	\$A1.5bn	Adviser on agreed merger to form a \$A1.5 billion company which places it in the top 70 companies on the ASX.
Coca-Cola acquisition	The Coca-Cola Company	\$A2.26bn	Adviser on the joint acquisition of the Philippine bottling business of Coca-Cola Amatil.
Brambles/GKN plc	Brambles Industries Ltd	\$A20bn	Adviser to Brambles on its dual listed companies merger with the support services activities of GKN plc.
ANZ acquisition	ANZ	\$A100m	Adviser to ANZ on the acquisition of Bank of Hawaii's operations in the South Pacific.
NRMA buy-back	NRMA	\$A400m	Adviser on the off-market ordinary share buy-back of NRMA.
TCNZ joint venture	Telecom Corporation of NZ	\$A250m	Adviser to Telecom Corporation of New Zealand on its joint venture with Hutchison Whampoa and Hutchison Telecommunications Australia Limited for rollout of third generation mobile telephony services in Australia and New Zealand.
Homemaker	Homemaker Property Management Ltd	\$A206m	Adviser to Homemaker Retail Group on the takeover offer by General Property Trust.
Macquarie Infrastructure Group acquisition of Cintra	Macquarie Infrastructure Group (MIG)	\$1.7bn	Equity investor, adviser and underwriter/joint lead manager to assist MIG in purchasing a 40% equity stake in Cintra. Interests in 15 new assets were acquired.
Detroit Windsor Tunnel	Macquarie Infrastructure Group (MIG)	US\$70m	Adviser on the acquisition and refinancing of the second busies US-Canada border crossing.
Rio Tinto/North	Rio Tinto	\$A2.3bn	Adviser on the takeover of North.
Normandy Mining	Normandy Mining	-	Adviser on the announced scrip takeover offer from AngloGold.

Macquarie Re



Online service



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EXHIBIT 3

By Council Member Rogell:

RESOLVED, that the Finance Director be and he is hereby authorized and directed to draw his warrant upon the proper fund in favor of the Estate of Gus Bradley and William G. Jamieson, Attorney for Gus Bradley, in the sum of \$1,000.00 in full payment of any and all claims which they may have against the City of Detroit and Detroit General Hospital as a result of the alleged negligence of Detroit General Hospital by and through its agents and/or employees in releasing Mr. Minnus, namely by untying his straps, and leaving him unattended and unrestrained; which alleged negligence resulted in plaintiff Gus Bradley being struck by Mr. Minnus, which resulted in personal injuries to the said Gus Bradley, on May 8, 1971, and that said amount be paid upon receipt of releases and discontinuance of the lawsuit satisfactory to the Law Department.

Adopted as follows:

Yeas — Council Members Browne, Cleveland, Henderson, Hood, Mahaffey, and President Levin—6.

Nays—Council Members Eberhard & Rogell—2.

Law Department

July 29, 1977

Honorable City Council:

Re: Detroit Riverfront — International Tunnel Plaza.

Transmitted herewith please find the Amended and Restated Agreement ("Amended Agreement") between the City of Detroit (the "City"), Ford Motor Properties, Inc. ("FMPI") and the Detroit & Canada Tunnel Corporation (the "Tunnel Company"), which has been approved by FMPI and the Tunnel Company, subject to the approval by the City Council.

The Amended Agreement contains the terms and conditions under which the transaction, between the City, FMPI and the Tunnel Company, as originally set forth in the agreement between those parties dated August 24, 1973 ("Original Tunnel Agreement") and approved by the Common Council of the City of Detroit on March 21, 1974, has been restructured to accommodate new requirements of the parties which developed after March, 1974.

The Tunnel Company presently owns and operates the existing tunnel property, as an international tunnel for vehicular traffic between Detroit and Windsor, Ontario pursuant to Ordinance 7-C of the City of Detroit, dated September 27, 1927, which ownership is subject to certain rights of the City to acquire those properties in 1990, as set forth in the Ordinance.

The Original Tunnel Agreement contemplated the acquisition of the Tunnel Property by FMPI from the Tunnel Company and the release of the City's right to acquire the Tunnel Property under Ordinance 7-C in 1990. Simultaneously with that ac-

quisition, FMPI would have leased the Tunnel Property to the City, together with other properties owned by FMPI ("New Tunnel Property") until 2100 A.D. (if all renewal options provided for in the Lease were exercised by the City). In turn, the Tunnel Property/New Tunnel Operating Property would have been subleased by the City of the Tunnel Company until 2020 A.D. (in the event the Tunnel Company exercised all renewal options provided for in the Sublease). The Original Tunnel Agreement provided for the construction of a covered tunnel plaza on the New Tunnel Operating Property by FMPI without cost or expense to the City or the Tunnel Company. At that time, it was envisioned by all parties that the New Tunnel Plaza would have been a covered plaza so as to permit the development of the air rights over the New Tunnel Operating Property (Phase II of the Detroit Riverfront development).

(A detailed description of the basic economic terms and conditions and the legal relationships between the parties under the terms and conditions of the Original Tunnel Agreement are outlined in detail in the letter dated March 13, 1974, by which Corporation Counsel transmitted the Original Tunnel Agreement to the Common Council for its approval and can be found on page 11 of the Minutes of the Common Council, Thursday, March 21, 1974.)

During the course of the past year, after consultations by and among representatives of the City, FMPI and the Tunnel Company, it has been agreed that the transaction contemplated by the Original Tunnel Agreement would be restructured so as to permit the City to acquire ownership of the Tunnel Property and Tube from the Tunnel Company and certain properties from FMPI for the nominal consideration of One (\$1.00) Dollar, rather than entering into a long term leasehold interest of those properties, as contemplated by the original agreement. In addition, it has been ascertained that the construction of a covered tunnel plaza to accommodate the construction thereon of a portion of the proposed Phase II of the Detroit Riverfront development is cost prohibitive due to the complexities of combining structural components of the tunnel plaza with the structural requirements which would be necessary for improvements which would have been constructed thereon. The prohibitive cost factor, together with employee environmental problems in a covered tunnel plaza having significant motor vehicle and bus exhaust emissions, have resulted in a determination that FMPI will not construct a covered plaza but rather, will construct a new, modernized and enlarged multi-million dollar open air tunnel plaza without cost or subsidization by the City or the Tunnel

Company. In this regard, all improvements presently located on the existing tunnel plaza will be demolished (with the exception of the ventilation building) and new improvements installed by FMPI to accommodate the tunnel operation, Customs and Immigration requirements, new facilities for bonded liquor export and other services relating to the tunnel operation.

It is the opinion of the administration that these complex transactions resulting from many months of careful study and negotiations between the parties will assist in the further implementation of the City's master plan with respect to the development of the property on the Detroit Riverfront and are clearly beneficial to the City of Detroit.

In summary, the Amended Agreement provides for the following:

(Attached you will find, for your reference, a copy of the amended Agreement without exhibits attached thereto. A glossary of definitions may be found in Article I of the Amended Agreement which may be cross referenced with the terms used in this letter. References in this letter to exhibits are to those exhibits attached to the Amended Agreement unless otherwise indicated. The Amended Agreement, with all exhibits attached thereto, is available for your inspection prior to the hearing on this matter, in the office of Corporation Counsel.)

1. The acquisition by the City, for the nominal consideration of One (\$1.00) Dollar, after the satisfaction of certain conditions precedent to the Closing (described in Article III of the Amended Agreement) of the Tunnel Property and the Tube from the Tunnel Company and the acquisition of vacated Woodbridge Street and vacated Atwater Street ("FMPI-Parcel A") from FMPI (FMPI-Parcel A was previously acquired from the City by FMPI in an unrelated transaction).

2. A Lease between the City, as Lessor, and FMPI, as Lessee (Exhibit "J"), whereby the City will lease the Tunnel Property (but not the Tube and excluding the AMMEX Parcel) and FMPI-Parcel A and other properties (collectively hereinafter "Tunnel Property") to FMPI until 1990. Under the terms and conditions of the Lease, FMPI is required to pay or cause to be paid, as additional rent, all real estate taxes and assessments on the Tunnel Property/New Tunnel Plaza and Tube during the term of the Lease. In addition, FMPI is responsible for causing the Tunnel Property/New Tunnel Plaza, but not the Tube, to be kept and maintained in a proper manner.

3. Pursuant to the terms and conditions of the Lease and Amended Agreement and as additional consideration for the Lease from the

City, FMPI is required to construct the multi-million dollar modernized and enlarged New Tunnel Plaza, including a new and enlarged facility for Customs and Immigration and other facilities for the operations currently housed on the existing tunnel plaza on the enlarged and modernized tunnel plaza which, upon completion of construction of the New Tunnel Plaza and the construction of certain improvements on the AMMEX Parcel, the New Tunnel Plaza will be approximately twice as large as the existing plaza and will have been constructed without cost, expense or subsidization by the City or the public.

4. A Sublease between FMPI, as Lessor, and the Tunnel Company, as Lessee (Exhibit "K"), whereby FMPI, for an interim period of time, will lease to the Tunnel Company the Tunnel Property (excluding the AMMEX Parcel) and other properties owned by FMPI (FMPI-Parcel B and the Off Site Inspection Area) until completion of the construction of the New Tunnel Plaza; and thereafter, FMPI will lease to the Tunnel Company the New Tunnel Plaza until 1990. After 1990 and in the event the Tunnel Company elects to extend the Prime Term of the Sublease ("Renewal Term"), the Sublease will become a direct lease between the City, as lessor, and the Tunnel Company, as lessee, during the Renewal Term, at a substantial rental based upon revenues of the Tunnel Company.

5. A lease ("Tube Lease"—Exhibit "L") between the City, as Lessor, and the Tunnel Company, as Lessee, whereby the City will lease to the Tunnel Company the Tube, so long as the Tunnel Company is lessee of the Tunnel Property/New Tunnel Plaza. Under the Tube Lease, the Tunnel Company is required to cause all real estate taxes on the Tube to be paid and has the obligation for all structural and nonstructural maintenance and repair with respect to the Tube.

6. A lease ("AMMEX Lease"—Exhibit "O") between the City, as Lessor, and FMPI, as Lessee, whereby the City will lease to FMPI the AMMEX Parcel until 2100 A.D. which, in turn, will be subleased by FMPI to AMMEX, Inc. (bonded liquor and perfume exporter presently operating on the tunnel plaza) for a period of years. The AMMEX Parcel consists of approximately .44 acres and will be surrounded by the New Tunnel Plaza. Under the AMMEX Lease, FMPI is required to pay or cause to be paid, all real estate taxes on the AMMEX Parcel and the City will not have any obligations in connection with the improvements constructed on the AMMEX Parcel. Under the terms and conditions of a separate agreement with AMMEX, Inc., FMPI is required to construct the improvements on the

AMMEX Parcel for use by AMMEX in its retail and related operations.

7. An Easement Agreement (Exhibit "R") by and among the City, FMPI, the Tunnel Company and AMMEX, pursuant to which the parties thereto have granted and/or reserved certain easements over and across the Tunnel Property-New Tunnel Plaza as follows:

(a) The reservation by the City of an easement across the New Tunnel Plaza for the proposed "people mover system";

(b) An easement granted to AMMEX for ingress, egress and installations in and across the Tunnel Property-New Tunnel Plaza;

(c) The reservation by the Tunnel Company of an easement in the AMMEX Parcel for the existing retaining wall and associated footings located near the portal of the Tube; and

(d) The reservation by FMPI of an easement for construction activities and permanent below-grade encroachments relating to construction on property located immediately southerly of and adjacent to the New Tunnel Plaza.

8. An agreement ("Lease Option Agreement"—Exhibit "M") between FMPI and the City, which will enable the City to lease, in 1990, FMPI—Parcel B and the Off Site Inspection Area from FMPI and, in turn, sublease those properties to the Tunnel Company under the terms of the Sublease or in the event the Tunnel Company does not extend the Prime Term of the Sublease, to enable the City to operate the New Tunnel Plaza or lease the New Tunnel Plaza to another entity. The Lease Option Agreement provides that the City shall have the option, in 1990, to lease from FMPI, FMPI—Parcel B and the Off Site Inspection Area on the terms and conditions provided in the Lease Option Lease (attached to the Lease Option Agreement as Exhibit "A") until 2100 A.D.

9. An agreement ("Parking Agreement"—Exhibit "S") between the City and Trustees of Mariners' Church of Detroit, pursuant to which (i) the City grants to Mariners' Church the exclusive right to park motor vehicles on a small portion of the Tunnel Property/New Tunnel Plaza and the nonexclusive right for ingress and egress over the Tunnel Property/New Tunnel Plaza to the parking area; and (ii) Mariners' Church shall release a portion of the Mariners' Church property ("City Parcel") from the greenbelt easement created at the time the Mariners' Church was moved to its present location.

In restructuring the transaction, the Amended Agreement and the documents attached thereto as Exhibits, take into account three (3) fundamental factors which differ

from the original tunnel transaction, namely:

(i) The acquisition by the City of the ownership of the Tunnel Property, Tube and FMPI—Parcel A (including air rights), the ownership of which will be without cost or expense ("carefree") to the City so long as the Tunnel Company is the lessee of the Tunnel Property/New Tunnel Plaza;

(ii) The construction by FMPI of an enlarged modernized and open tunnel plaza, as opposed to a covered tunnel plaza but, as provided in the Original Tunnel Agreement, without cost or expense to or subsidization by the City; and

(iii) The release by FMPI of its rights and ability (as contemplated in the Original Tunnel Agreement) to construct Phase II of the Development over the New Tunnel Plaza.

As restructured, the transaction, as it relates to the City, does not change the economic benefits to be received by the City from the economic benefits (described in detail in the letter dated March 18, 1974 from Corporation Counsel to Common Council) that would have been received by the City under the terms and conditions of the Original Tunnel Agreement. In addition, the City will have the benefit of being the owner of the Tunnel Property, Tube and FMPI—Parcel A for a nominal consideration of One (\$1.00) Dollar without loss of real estate tax revenues and will not be required to perform any maintenance or repair functions or other normal ownership functions with respect thereto so long as the Tunnel Company is the lessee of the New Tunnel Plaza. In addition, as provided in the Original Tunnel Agreement, in the event the Tunnel Company extends the Prime Term after 1990, the City will receive, as Lessor under the Sublease, rental from the Tunnel Company equal to twenty (20%) percent of the Tunnel Company's annual average net operating income (before income taxes) derived from its tunnel operations during each year of each Renewal Term (three (3) ten (10) year Renewal Options are provided for in the Sublease). In essence, the Lease and the AMMEX Lease, as between FMPI and the City, and the Sublease (during the Renewal Term) and the Tube Lease, as between the Tunnel Company and the City, are "carefree" to the City and provide an absolute net return to the City of all real estate taxes on the New Tunnel Plaza and Tube and, during the Renewal Term, the percentage rent provided for in the Sublease.

In summary, the following economic factors of the original transaction, as it related to the City, have not changed and have been incorporated into the terms and conditions of the Amended Agreement:

1. During the period from the closing of the transaction until November 3, 1990, the City will be in at least as favorable an economic position as it would have been if the transaction did not take place. The Lease, AMMEX Lease and Tube Lease are "care-free" leases from the City's point of view without requiring the City to perform any obligations with respect to the Tunnel Property-New Tunnel Plaza, AMMEX Parcel or Tube; FMPI is required to construct the new modernized multi-million dollar New Tunnel Plaza at its sole cost and expense which is anticipated will have a substantial useful life and as result thereof, the City will not be required to make anticipated capital improvements and repairs to the existing (deteriorating) tunnel facilities in 1990 or thereafter, as would have been required if the City became owner of the Tunnel Property under Ordinance 7-C and this transaction had not taken place.

2. In addition, there will be substantial tangible and intangible benefits which will be realized by the City and the public arising out of the construction of the New Tunnel Plaza. A major and costly capital improvement of approximately 2.5 million dollars will be completed and added to the Tunnel Property without cost or expense or subsidization by the City or the taxpayers. The area of the New Tunnel Plaza will be enlarged from approximately 2.1 acres to 3.64 acres which, together with the AMMEX Parcel of approximately .44 acres, will result in a modernized international tunnel plaza having a substantially greater capacity and increased operating efficiency over the existing tunnel facility which will enhance the movement of international traffic and encourage additional visitation to the City of Detroit.

3. In the event the Tunnel Company exercises its option to extend the Prime Term of the Sublease, the City will receive from the Tunnel Company an annual rental for each year of the Renewal Term (the last of which will expire on November 3, 2020 A.D.) equal to twenty (20%) percent of the Tunnel Company's net average operating income (before taxes) which will provide the City with a continuing flow of income at least equivalent to what it would reasonably expect to receive as the owner of the existing Tunnel Property under Ordinance 7-C after 1990. In addition, after 1990, the Tunnel Company is required to pay all real estate taxes and assessments on the New Tunnel Plaza and will be responsible for all maintenance and repair of the New Tunnel Plaza and the Tube. (The rental formula provided for in the Sublease for the Renewal Term is the same rental formula contemplated by the Original Tunnel Agreement and is expected to generate an excellent and increasing return to the City based

upon current operations, normal inflationary expectations and the contemplated increase in business as a consequence of the modernized and enlarged New Tunnel Plaza.) Moreover, the City, as owner of the New Tunnel Plaza after the expiration of the Prime Term-Renewal Term of the Sublease, will have the further option of either operating the New Tunnel Plaza itself or leasing the New Tunnel Plaza to another entity for the operation as an international tunnel.

4. In addition to the foregoing and perhaps the most important intangible benefit to be received by the City by the consummation of the transaction and construction by FMPI of the New Tunnel Plaza, will be further implementation of the City's master plan with respect to the development of the property on the Detroit River and another step in the revitalization in downtown Detroit.

In conclusion, considering the significant financial and civic benefits which will accrue to the City as a result of the transactions contemplated by the Amended Agreement, we have submitted the Amended Agreement and the leases and agreements attached thereto as exhibits, which are to be executed and delivered on behalf of the City of Detroit, to you for your approval and confirmation and request that the City Council adopt the attached Resolution authorizing the Finance Director to execute and deliver the Amended And Restated Agreement and, upon satisfaction of the conditions to Closing, in a manner satisfactory to Corporation Counsel, to execute and deliver the Lease with FMPI, the Tube Lease with the Tunnel Company, the Sublease with FMPI and the Tunnel Company, the Lease Option Agreement with FMPI, the AMMEX Lease with FMPI, the Easement Agreement and such deeds, documents, instruments, conveyances and approvals as may be necessary in the judgment of Corporation Counsel to consummate the transactions contemplated by the Amended And Restated Agreement, without the necessity of submitting such documents and instruments to the Council for further action or approval.

It is further requested that you waive reconsideration of this matter.

Respectfully submitted,

ROGER E. CRAIG,
Corporation Counsel

Law Department

August 1, 1977

Honorable City Council:
Re: Amended Agreement between City of Detroit, the Detroit & Canada Tunnel Corporation and Ford Motor Properties, Inc.

Attached for your approval is the Resolution relative to the above-captioned agreement.

Copies of the agreement were transmitted to your Honorable Body on July 28, 1977 for review. We respectfully request approval.

Respectfully submitted,

ROGER E. CRAIG

Corporation Counsel

By Council Member Rogell:

RESOLVED, That the Amended And Restated Agreement between the City of Detroit (the "City"), the Detroit & Canada Tunnel Corporation (the "Tunnel Company") and Ford Motor Properties, Inc. (FMPI), transmitted with the foregoing communication, is hereby approved and shall be executed and delivered by the Finance Director.

RESOLVED, That the Finance Director is authorized to execute and deliver the Lease between the City and FMPI, the Sublease between FMPI, the Tunnel Company and the City, the Tube Lease between the City and the Tunnel Company, the AMMEX Lease between the City and FMPI, the Lease Option Agreement between the City and FMPI, the Parking Agreement between the City and the Trustees of Mariners' Church of Detroit and the Easement Agreement between the City, FMPI, the Tunnel Company and AMMEX, Inc., in substantially the form that such leases and agreements are attached to the Amended And Restated Agreement as exhibits, and such other deeds, documents, instruments, conveyances and approvals as may be necessary, in the judgment of Corporation Counsel, to consummate the transactions contemplated by the Amended And Restated Agreement upon satisfaction of the conditions to Closing set forth in the Amended And Restated Agreement, in a manner satisfactory to Corporation Counsel, without the necessity of submitting such deeds, documents, instruments, conveyances or approvals to the City Council for further action or approval.

RESOLVED, That the Finance Director is authorized to accept deeds and bills of sale from the Detroit & Canada Tunnel Corporation, conveying to the City of Detroit the Tunnel Property and Tube and the rights referred to in paragraph 4(a)(1) and 5 of Article II of the Amended And Restated Agreement and the deed from Ford Motor Properties Inc. for the properties to be conveyed to the City of Detroit by Ford Motor Properties, Inc., under the terms of the Amended And Restated Agreement and such other deeds documents, instruments and conveyances as may be necessary, in the judgment of Corporation Counsel, to consummate the transaction contemplated by the Amended And Restated Agreement.

RESOLVED, That the Finance Director is authorized to execute and deliver, on behalf of the City of Detroit, to Ford Motor Properties, Inc., a deed conveying to Ford Motor Properties, Inc., those rights referred to in

paragraph 4(a)(1) and 5 of Article II of the Amended And Restated Agreement, in exchange for the property conveyed by Ford Motor Properties, Inc. to the City of Detroit, and such other deeds, documents, instruments and conveyances as may be necessary, in the judgment of Corporation Counsel, to consummate the transaction contemplated by the Amended And Restated Agreement.

RESOLVED, That Ordinance 7-C shall remain in full force and effect, provided that the right of the City of Detroit to purchase and acquire the property of the Detroit & Canada Tunnel Corporation, used and operated for the purposes of the tunnel, as provided in Ordinance 7-C, shall be deemed satisfied and consummated upon consummation of the transactions contemplated by the Amended And Restated Agreement and the delivery of the deed from the Detroit & Canada Tunnel Corporation to the City of Detroit.

RESOLVED FURTHER, That reconsideration of this matter is hereby waived.

Approved:

ROGER E. CRAIG

Corporation Counsel

Adopted as follows:

Yeas — Council Members Browne, Cleveland, Eberhard, Henderson, Hood, Mahaffey, Rogell, and President Levin — 8.

Nays — None.

Community & Economic
Development Department

July 21, 1977

Honorable City Council:

Re: Detroit-Windsor Tunnel Corporation. Renovate and expand the tunnel plaza in a PD zone West side of Randolph south of East Jefferson.

By Ordinance 685-G, which became effective February 1, 1973, your Honorable Body changed the zoning on the Renaissance Center site south of East Jefferson extending from the Civic Center Plaza to St. Antoine to a PD (planned development) district classification. Following the actual purchases of all properties involved, a subsequent action was taken to adopt Ordinance 17-H, which became effective January 13, 1975, to reflect the names of the new owners of such properties. When these Ordinances were adopted the proposed site and elevation plans became an integral part of the Zoning Amendment per the provisions of Section 110.0101 of the Zoning Ordinance. These plans indicated a covered tunnel plaza and additional high rise office towers for the area west of Randolph south of East Jefferson, commonly known as Phase II of the Renaissance Center Development.

A proposal has been submitted to amend these adopted plans for Phase

II and to delete the cover for the plaza and to delete the additional high rise office towers for the area west of Randolph south of East Jefferson. Section 110.0400 of the Zoning Ordinance provides procedures to be followed in processing any major change in previously approved plans. Such procedures include a review and recommendation by Community and Economic Development Department, a review and a public hearing by the City Planning Commission followed by their recommendation, and a review and public hearing held by your Honorable Body followed by your adoption of an amendatory Ordinance.

The subject proposal involves the demolition of all buildings existing on the present tunnel plaza (with the exception of the tunnel ventilator building) and the construction of new buildings to house all of the tunnel related activities as well as the construction of an elevated pedestrian walkway to East Jefferson and the portion of the Civic Center Plaza between Ford Auditorium and Mariners Church. During the construction period the majority of the various tunnel related activities will be housed in temporary buildings and trailers, with the remaining activities being housed temporarily in one of the Renaissance Center office towers. The tunnel plaza will be expanded from its present 97,000 square feet to its proposed 193,000 square feet.

Included in the proposed development are new facilities for the United States Customs and Immigration personnel, a new Ammex Export sales building, a new Tunnel Bus to Canada facility including a new waiting room for bus passengers, and new inspection facilities for all vehicles entering the United States from Canada. Plans for the new development call for the new buildings and structures to be slightly taller (four to 10 feet taller) than the existing buildings on the plaza and to be architecturally compatible in appearance and materials with the new Renaissance Center plaza adjacent and to the east. It is anticipated that demolition of existing buildings will begin within six months and that construction of the new plaza and buildings will be completed within eighteen months.

When the original plans for the Renaissance Center were approved, it was agreed that Phase II of the development would include the renovation and expansion of the present tunnel plaza. The subject development plans, even though they do not include the previously shown office towers, are consistent with that agreement.

After careful review of the proposal, it is the opinion of the Community and Economic Development Department that the subject proposal would

be appropriate and would be an asset to both the Renaissance Center and to the Civic Center. It is further the opinion of the Department that the proposal, although different from the previously approved plans for Phase II of the Renaissance Center development, are consistent with the previously approved tri-party agreement (the City of Detroit, the Detroit-Windsor Tunnel Corporation, and Renaissance Center Partnership-Ford Motor Properties, Inc.).

The Community and Economic Development Department therefore recommends that the subject development be approved, that Ordinance 17-H be amended to allow the development as proposed, and that the following conditions be fully complied with and be made a part of the resolution adopted by your Honorable Body:

1. That temporary buildings may be placed on the site for construction purposes and for the various tunnel related activities, provided that such temporary buildings are removed from the site within two (2) years of the effective date of this Ordinance, and
2. That all signs and permit applications for such signs, whether permanent or temporary, be submitted to the Community and Economic Development Department for review and its stamp of approval prior to such signs being erected or placed on the site.

Respectfully submitted,

RONALD J. HEWITT

Director

City Council's
City Planning Commission

July 29, 1977

Honorable City Council:

Re: Ford Motor Properties Inc. Modification of PD site plan for Renaissance Center to permit the construction of the new tunnel plaza (Approve with conditions)

The petitioner has requested that the previously approved PD site plan be modified for a portion of the Renaissance Center property which is part of the property to be developed for the proposed new tunnel plaza. The present tunnel property is also included in the proposed development. The subject property under the original PD plan was to be developed as the second phase of Renaissance Center with four office buildings. The proposed modification involves the demolition of all existing buildings except the ventilation building and the construction of new buildings to house all of the tunnel related activities. The tunnel plaza will be expanded from its present 97,000 square feet to its proposed 193,000 square feet. Included in the proposed development are new facilities for U. S. Customs and Immigration personnel, a new Ammex Export

Sales Building, and a new tunnel to Canada facility.

The plans for the architectural sign of the proposed buildings not yet been finalized. However proposed development will be a tecturally compatible in appearance and materials with the new Renaissance Center buildings adjacent to the east of the proposed tunnel. Construction on the existing buildings will begin in six months the estimated construction time two years, so temporary facilities the existing tunnel functions necessary.

The City Planning Commission its meeting of July 28, 1977 v 5-0-1 to recommend approval of proposed modification of the previously approved PD site plan Renaissance Center to be developed as part of the new tunnel plaza subject to the following conditions:

1. That the proposed development is in accordance with the site elevation plans which were prepared by Ellis Naeyaert Genheimer Associates Inc., dated June 27, 1977, identified as Job No. 77-116;
2. That temporary buildings be placed on the site for construction purposes and for the various tunnel related activities, provided that such temporary buildings are moved from the site within two years of the effective date of this ordinance, and
3. That all signs and permit applications for such signs, whether permanent or temporary, be submitted to the Community and Economic Development Department for review and its stamp of approval to such signs being erected or placed on the site

Respectfully submitted,

JOSEPH E. FLYNN,

Secretary

City Planning Commission

By Council Member Mahaffey:

RESOLVED, that the City Council approves the proposal of Ford Motor Properties, Inc. to modify the previously approved PD site plan for portion of the Renaissance Center property to permit construction of the new tunnel plaza subject to the following conditions:

THAT, the proposed development, in accordance with the site and elevation plans which were prepared by Ellis Naeyaert Genheimer Associates Inc., dated June 27, 1977, and identified as Job No. 77-116;

THAT, temporary buildings may be placed on the site for construction purposes and for the various tunnel related activities, provided that such temporary buildings are removed from the site within two (2) years of the effective date of this Ordinance, and

THAT, all signs and permit applications for such signs, whether permanent or temporary, be submitted

Sales Building, and a new tunnel bus to Canada facility.

The plans for the architectural design of the proposed buildings have not yet been finalized. However, the proposed development will be architecturally compatible in appearance and materials with the new Renaissance Center buildings adjacent and to the east of the proposed tunnel. Construction on the existing buildings will begin in six months and the estimated construction time is two years, so temporary facilities for the existing tunnel functions are necessary.

The City Planning Commission at its meeting of July 28, 1977 voted 5-0-1 to recommend approval of the proposed modification of the previously approved PD site plan for Renaissance Center to be developed as part of the new tunnel plaza subject to the following conditions:

1. That the proposed development is in accordance with the site and elevation plans which were prepared by Ellis Naeyaert Genheimer Associates Inc., dated June 27, 1977, and identified as Job No. 77-116;

2. That temporary buildings may be placed on the site for construction purposes and for the various tunnel related activities, provided that such temporary buildings are removed from the site within two (2) years of the effective date of this Ordinance, and

3. That all signs and permit applications for such signs, whether permanent or temporary, be submitted to the Community and Economic Development Department for review and its stamp of approval to such signs being erected or placed on the site.

Respectfully submitted,

JOSEPH E. FLYNN,

Secretary

City Planning Commission

By Council Member Mahaffey

RESOLVED, that the City Council approves the proposal of Ford Motor Properties, Inc. to modify the previously approved PD site plan for a portion of the Renaissance Center property to permit construction of the new tunnel plaza subject to the following conditions:

THAT, the proposed development is in accordance with the site and elevation plans which were prepared by Ellis Naeyaert Genheimer Associates Inc., dated June 27, 1977, and identified as Job No. 77-116;

THAT, temporary buildings may be placed on the site for construction purposes and for the various tunnel related activities, provided that such temporary buildings are removed from the site within two (2) years of the effective date of this Ordinance, and

THAT, all signs and permit applications for such signs, whether permanent or temporary, be submitted

to the Community and Economic Development Department for review and its stamp of approval to such signs being erected or placed on the site.

Adopted as follows:

Yeas — Council Members Browne, Cleveland, Eberhard, Henderson, Hood, Mahaffey, Rogell, and President Levin — 8.

Nays — None.

Law Department

August 1, 1977

Honorable City Council:

Re: Frederick and Herrud, Inc. (Petition No. 1950), Application for Industrial Facilities Exemption Certificate.

Enclosed please find a resolution approving the application of Frederick and Herrud, Inc. as requested by your Honorable Body at the public hearing held on July 19, 1977.

Respectfully submitted,

DONALD R. McMILLAN

Asst. Corp. Counsel

Approved:

JOHN HATHAWAY

Acting Corporation Counsel

By Council Member Rogell:

Whereas, This City Council has established by resolution City of Detroit Plant Rehabilitation District No. 3 (J.C.C. pp. 1170 and 1171, June 11, 1975), in the City of Detroit pursuant to Act No. 198 of the Public Acts of 1974, as amended; and

Whereas, This City Council has by resolution expanded said Plant Rehabilitation District No. 3 (J.C.C. pp. 758 and 759, April 13, 1977); and

Whereas, Frederick and Herrud, Inc. (Petition No. 1950) has filed with the City Clerk an application for an Industrial Facilities Exemption Certificate in said City of Detroit Plant Rehabilitation District No. 3 as expanded in the manner and form prescribed by the State Tax Commission; and

Whereas, The applicant is the owner or lessee of a facility within said District; and

Whereas, On the 19th day of July, 1977, at 10:00 a.m. in the City Council Committee Room, 13th Floor, City-County Building, a public hearing was held on said application for an Industrial Facilities Exemption Certificate at which hearing the applicant, the assessor, and a representative of the affected taxing units had an opportunity for a hearing; and

Whereas, Notice was given, by certified mail to the Detroit Board of Education, the City of Detroit Board of Assessors, Wayne County Board of Commissioners, Wayne County Community College, Wayne County Intermediate School District, and the applicant, informing them of the receipt of said application for an Industrial Facilities Exemption Certificate; the date and location of said